



TOWN OF KINGSTON  
BOARD OF SELECTMEN

MINUTES  
August 10, 2004

Chairman Mark S. Beaton opened the meeting of the Board of Selectmen held on August 10, 2004 at 7:30 p.m. in Room 200 at the Town House, 26 Evergreen Street, Kingston. Present were Vice Chairman Paul M. Gallagher, Olavo B. DeMacedo, Joseph D. Kelleher, Richard E. Kenney and Town Administrator Kevin R. Donovan.

The Chairman announced the dates to note and the Open Forum. No one came forward to speak at Open Forum.

Mr. Beaton advised that he had several residents express concern for mini-motorized bikes being operated on Town streets. He suggested that Chief Fogg provide the Board with information and options to regulate their use.

The Chairman read the notice for the Public Hearing on the application of Plymouth Gateway, LLC for an Earth Removal Permit. Mr. Beaton stated that the Building Inspector had provided the Board with four options regarding the permit and suggested continuing the hearing until September 21<sup>st</sup> in order to allow the Planning Board to review. Gary Darmon of Saxon Partners, the developer of the project requested that it not be postponed until September because the project was underway and the location of the earth to be removed was very important to the project. Mr. DeMacedo asked several questions regarding wetlands, water and description of the area to be excavated.

Mr. Darmon advised that the Water Department had been contacted during the MEPA review and they had addressed all the Water Department's concerns and that the area consisted of a slope cut encompassing under 3 acres of land along the Plymouth/Kingston line.

Mike Daviano the Project Engineer for Cubellis Saivetz and Associates stated that 2,000 cubic yards had been removed when they learned that a permit would be needed from Kingston and that the cut would divert all the water toward Plymouth.

Mr. DeMacedo stated that he had no problem with the Planning Board looking at the plan but hoped it could be done quicker and asked Mr. Darmon if he would pay for a Consultant's review. Mr. Darmon agreed to pay the cost.

Mr. Beaton stated that the Board could ask the Planning Board to put it on the fast track and hopefully have the Consultant's opinion by the Board's next meeting.

Upon motion made and seconded, following a discussion and a 5 to 0 to 0 vote, it was —

VOTED: To continue the hearing until August 24, 2004 at 7:30 p.m.

Mr. Beaton invited Karen Roberts from Melanson Heath, the Town's independent Auditing firm to join the meeting. Ms. Roberts provided an overview of the audit performed on the guaranteed funds/Planning Board Consultant Accounts. She stated that she was pleased to report that the disparity in amounts was due to a record issues and that it would be easy to resolve. She further stated that the most complete set of records was kept by the Planning Board and that the Treasurer had failed to record all expenditures which resulted in the disparity and that in the future the accounts would be reconciled regularly. Ms. Roberts stated that the Planning Board did have a procedure manual and that they would follow that manual.

John LaBrache, Treasurer stated that he had been able to determine a number of accounts with funds to be closed to the General Fund and a number of accounts containing funds to be returned to the Developers with interest.

The Board reviewed the Town Administrator's report. Mr. DeMacedo noted that the 40B Legislation to count mobile homes as affordable housing units had failed again this year and expressed his concern. He suggested having Senator Murray and Representative O'Brien in to explain why it failed again.

Upon motion made and seconded, following a discussion and a 5 to 0 to 0 vote, it was--

VOTED: To send a letter to Senator Murray and Representative O'Brien to request a full explanation of why the legislation failed to pass to have mobile homes count as affordable housing.

Mr. Kenney stated that he had spoken with Cynthia Walker, Real Estate Agent for the Post Office who advised that the Post Office would renew its interest in building a new Post Office in Kingston by issuing a new solicitation for sites.

Mr. Gallagher noted the \$900,000 surplus funds left at the end of the fiscal year by the Regional School.

Mr. Beaton noted that the audio problem in the broadcast of the Selectmen's meetings was determined to be a problem with Adelphia and PAC TV and it was being addressed.

Upon motion made and seconded, following a discussion and a 5 to 0 to 0 vote, it was--

VOTED: To accept the minutes of the public and executive session meetings on July 27, 2004.

The Board reviewed the request to increase the ambulance billing rates. Mr. Kenney made a motion to increase to 30% above the Medicare billing amount, and it was seconded by Mr. DeMacedo for discussion. Mr. Kelleher spoke in favor of the motion. Mr. DeMacedo stated that just because they could raise the rate didn't mean they should. He further stated that the cost is eventually passed along to the consumer and although it would not make much of a difference, he supported setting an example in this matter. Mr. Beaton stated that he also was opposed to the 30% markup. The motion to increase the billing by 30% was defeated by a 2 to 3 vote; Mr.

Kenney and Mr. Kelleher supported the motion and all other Selectmen did not support the motion.

Upon motion made and seconded, following a discussion and a 3 to 2 vote, it was—

VOTED: To increase the rate of billing over the Medicare rate by 3%.

Mr. DeMacedo, Mr. Beaton and Mr. Gallagher supported the motion, Mr. Kenney and Mr. Kelleher did not support the motion.

The Board reviewed the request to name a portion of state Route 44 as POW/MIA Memorial Highway and upon motion made and seconded, following a discussion and a 5 to 0 to 0 vote, it was—

VOTED: To send a letter of support for the naming of a portion of state Route 44 as POW/MIA Memorial Highway, and further;

VOTED: To sign the Warrant for the State Primary and post it in the usual places as indicated by the Town Clerk.

The Board reviewed the site plan for Crayon College on 24 Main Street. Mr. DeMacedo and Mr. Gallagher expressed concern for the access and turning radius indicated on the site plan and wanted concerns forwarded to the Planning Board.

Mr. Beaton stated that he wanted to discuss the Zoning Board of Appeals membership and suggested that all members of the Zoning Board resign and reapply for the positions. He suggested that the Board request the resignations and made a motion to that effect. He further stated that the Board was the appointing authority and that he took that position very seriously.

Mr. Gallagher seconded the motion for discussion. Mr. Beaton stated that when he sees an employee not measuring up he would suggest asking for them to step aside for the good of the Town. He stated that the Board of Selectmen had set up a joint meeting at which Town Counsel provided an overview of the role of the ZBA and it appeared that the ZBA members had not taken advantage of the information. He stated that they had recently held a hearing on the Fountain Knoll 40B project and only one member had come prepared and that the applicant's attorney had chastised the Board for not being prepared. Mr. Beaton stated that the current Board was not competent to sit on the import issues before it.

Mr. Kenney suggested not asking the whole Board to resign but to bring in those members that they had issue with for a hearing to remove them. Mr. Beaton stated that would be the next step if the members did not resign.

Mr. DeMacedo stated that if the Board has an issue with any of the members, they should be called in on an individual basis and be provided the opportunity to be heard. He requested an opinion from Counsel as to whether the Board of Selectmen could act as the Zoning Board.

Mr. Kelleher stated that the process started tonight and the 40B hearing before the ZBA could have a catastrophic outcome if not handled properly.

Mr. Gallagher stated that this was a critical time and decisions on the 40B applications will direct where the Town is going. He further stated that the Board had provided legal Counsel to the ZBA and despite the efforts all but one member was unprepared for the last meeting on the Fountain Knoll project.

On the motion to ask the ZBA members to resign and reapply for consideration of an appointment to the Zoning Board failed on a 2 to 3 vote. Mr. Beaton and Mr. Kelleher supported the motion, Mr. DeMacedo, Mr. Kenney and Mr. Gallagher did not support the motion.

Mr. DeMacedo suggested that while waiting for Counsel's opinion, the Board could begin to prepare discussion with some members of the ZBA.

Upon motion made and seconded, following a discussion and a 5 to 0 to 0 vote, it was --

VOTED: To enter into executive session<sup>1</sup> to consider the purchase, exchange lease or value of real property and collective bargaining and not return to public session.

Respectfully submitted:

Nancy Howlett, Assistant to the  
Town Administrator/ Board of Selectmen

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<sup>1</sup> The public session adjourned at 9:25 p.m. and the executive session adjourned at 9:45 p.m.